IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1062 (M/S) of 2006

1. Smt. Manjula Sharma, W/o late Sri Surendra Kumar Sharma,
2. Km. Nidhi Sharma, D/o late Sri Surendra Kumar Sharma,
3. Km. Vidhi Sharma, D/o late Sri Surendra Kumar Sharma,
4. Nitin Kumar Sharma, S/o late Sri Surendra Kumar Sharma,

All are residents of Mohalla Gorakhpur, Haldwani, Nainital, District – Nainital.

.....Petitioners

Versus

1. Registrar /Cane Commissioner, Cooperative Sugar Factories, (Uttaranchal), Kashipur, District – Udham Singh Nagar.
2. General Manager, Bajpur Cooperative Sugar Factory Ltd., Bajpur, District – Udham Singh Nagar.

.....Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rakesh Thapliyal, learned counsel for the petitioners, Sri C.K. Sharma, learned counsel for the respondent no. 2 and Sri Paresh Tripathi, learned Brief Holder for State of Uttaranchal on behalf of respondent no. 1.

By means of this writ petition, the petitioner has prayed for the following reliefs:

I. Issue a writ, order or direction in the nature of Certiorari quashing the impugned award dated 05.07.2006 passed by Registrar / Cane Commissioner the respondent no. 1 as well as the notice dated 21.07.2006 passed by respondent no. 2.

II. *issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

III. *award cost of the petition to the petitioners.*

Petitioners are aggrieved with the award dated 05.07.2006 passed by respondent no. 1.

Learned counsel for the petitioner has submitted that reference was wrong and as such, award passed by respondent no. 1 is not sustainable in the eyes of law.

Sri C.K. Sharma, learned counsel for the respondent no. 2 has submitted that petitioner has alternative remedy by way of filing appeal before the Tribunal under section 97 of the Uttaranchal Cooperative Societies Act, 2003.

Learned counsel for the petitioner has placed reliance on the judgment dated 12.07.2006 passed Hon'ble Apex Court reported in 2006 (6) SCC 80 (Morinda Coop. Sugar Mills Ltd. Vs. Morinda Coop. Sugar Mills Workers' Union) in support of his plea that reference was itself bad.

Petitioner may file appeal before appropriate forum as provided in the Uttaranchal Cooperative Societies Act, 2003.

Writ petition is dismissed on the ground of alternative remedy. Stay application no. 10045/2006 is rejected accordingly. No order as to costs.

(M.M. Ghildiyal, J)

August 29, 2006
SKSharma